

Dear Rep. Walsh and House Judiciary members,

I would like to address 3 major concerns I have with SB 188 & 189... those being the:

- Handling of youths assigned to HYTA (Holmes Youthful Trainee Act)
- Handling of those successful getting a record set-aside
- Placement of employer address on the public internet.

#### **HYTA (Holmes Youthful Trainee Act)**

- HYTA is an assignment Judges can use with individuals 17 up to the age of 21, or with 15-16 year olds whose cases are moved to adult court, when the court feels, for whatever reason, that the individual is worthy of this type of assignment.
- If these youths complete their assignment without any problems a conviction is never entered on their record and they can legally and honestly say they have never been convicted of a crime.
- Yet they show up on the public registry as being "convicted", and the site even has a "Date of conviction" displayed... making them look like they are lying about having no conviction.
- Because of this discrepancy HYTA youths are constantly having to explain and disclose their personal non-public, by law, information.
- The intention of HYTA was to give youths a "second chance" and the requirement to register nullifies that "second chance".
- HYTA law states that an individual shall suffer no civil disability or loss of right or privilege due to their assignment to HYTA, yet many HYTA have lost jobs, job opportunities, housing and educational opportunities ONLY because they are on the registry and it shows up on any background check.
- HYTA law also says that their criminal information is closed to public inspection... yet their non-public information is made VERY public on both the State and National Registries.
- Youths assigned to HYTA for a registerable offense are NOT afforded the same benefits as a youth assigned to HYTA for any other type of crime. The later can legally and honestly say they have never been convicted of a crime, and NOTHING shows up publicly to conflict with that truthful statement.
- Anyone who was granted HYTA and successfully completed their assignment, on or after 10/1/2004, has never been required to register yet those assigned to HYTA prior to that time are still required to register.
- MANY HYTA will be placed in a Tier III based on their charge and will be made to look like the "worst of the worst"... even though they have never had a conviction on their record. Out of 35 HYTA members still required to register, 24 will go from 25 years to LIFETIME on the registry. Of the 35 HYTA members 30 would not have been required to register if they had been assigned to HYTA after 10/1/2004.
- From what I have heard there are only 216-260 HYTA registrants in Michigan, so we are NOT talking about a large number of individuals.
- South Dakota has a HYTA type disposition that they release from registration requirements when they have completed their assignment and this state has been found in substantial compliance with The Adam Walsh Act (AWA).
- Some HYTA have already successfully petitioned for a reduction to 10 years on the registry and should be placed in a Tier I until the time they come off, if not immediately removed.
- Not all HYTA will be able to petition for removal under the Romero & Juliet (R&J) petition and even if they think they might qualify it is going to be VERY difficult 8+ years later to prove consent when consent was never part of the original case (as anyone under the age of 16 is legally incapable of consent). It could not be used as a defense at the time of the case but

years later this legislation wants them to “prove” it. Most cases were pled because there was NO defense... as the age of the victim was the bottom line.

- PLEASE release ALL HYTA from registration requirements OR, at the very least, place them in a non-public Tier I where they could enjoy the benefits that are, by law, supposed to be afforded under HYTA. Plus they would no longer be accused of lying on an application.

#### **Set-asides**

- 5 years after imposition of sentence or completion of time incarcerated and when an individual has no other convictions on their record they can petition the court to have their record set-aside.
- A court felt they were worthy of having no conviction on their record
- The AG has the opportunity to appeal the court's decision, and if it was not overturned or challenged then it must mean the AG's office is in agreement.
- A set-aside cannot be granted if the individual has any other conviction on their record
- 4<sup>th</sup> degree CSC is the only CSC that qualifies for a set-aside. There are other non-CSC registerable offenses that might qualify for set-aside, also.
- They do not enjoy the same benefits as someone else who has had a record set-aside for any other type of offense. Many have lost jobs, job opportunities and housing ONLY due to being on the registry, and it shows up on any background check
- Florida is one of the 4 states that has substantially complied with SORNA and they DO NOT require further registration once an individual has been successful getting their offense set-aside, so we know MI can do this and still be found compliant.
- PLEASE REMOVE anyone who has been successful getting their record set-aside OR, at the very least, place them in a non-public Tier I.

#### **Employer address on the public Internet**

- SB 188 & 189 places the address of a registrant's employer on the public internet. This is required by the Adam Walsh Act (AWA).
- BUT... South Dakota and Florida have been found substantially compliant and they do NOT list this information publicly. They collect the information but it is for law enforcement purposes only.
- Putting employer address online will virtually insure that no one on the registry can get or keep a job. The state will spend a lot of money on unemployment or public assistance for those they have made unemployable.
- NO employer will want the address for their business online associated with a registrant. So they will fire, or not hire anyone on the registry.
- Some registrants own their own businesses and this requires them to place the address of their own business on the public registry. Most likely, over time, this will keep them from being able to continue their business. Many people in the public will not want to do business with anyone required to register.
- It is a fact that individuals are already losing jobs and job opportunities ONLY because of their requirement to register. Putting this information on the public registry will just make matters worse.
- Many of these registrants have spouses and children they are trying to help support and placing this information online will affect their well being and livelihood.
- PLEASE keep ALL employer information NON-PUBLIC!

Thank you for your consideration and efforts in working on this legislation,

Barb